

UNITED STATES DISTRICT COURT
DISTRICT OF MAINE

TOWD POINT MORTGAGE TRUST)
2015-5, US BANK NATIONAL)
ASSOCIATION as Indenture Trustee,)
)
 Plaintiff,)
)
 v.) Docket No. 2:23-cv-00341-NT
)
 CHARLES FLAYHAN II and)
 SUE O'BRIEN,)
)
 Defendants.)

JUDGMENT OF FORECLOSURE AND SALE

Address: 867 Knight's Hill Road, Sweden, ME 04040

Mortgage: December 16, 2005

Book 510, Page 890 of Oxford County Registry of Deeds

This matter came before the Court for a testimonial hearing on the Plaintiff's motion for default judgment on September 17, 2024 (ECF No. 26). In a separate Order, I granted that motion and, pursuant to the Plaintiff's request, dismissed Counts II–IV of the Complaint. Order on Pl.'s Mot. for Default Judgment (ECF No. 29). Judgment on Count I – Foreclosure and Sale is hereby **ENTERED** as follows:

1. If the Defendants or their heirs or assigns pay Towd Point Mortgage Trust 2015-5, US Bank National Association as Indenture Trustee ("Towd Point") the amount adjudged due and owing (\$168,534.13) within 90 days of the date of the Judgment, as that time period is calculated in accordance with 14 M.R.S. § 6322, Towd Point shall forthwith discharge the Mortgage and file a dismissal of this action

on the ECF docket. The following is a breakdown of the amount due and owing as of August 29, 2024:

Description	Amount
Principal Balance	\$116,108.26
Interest	\$20,410.78
Unpaid Late Charges	\$533.17
Escrow Advance	\$25,794.71
Advance Balance	\$1,232.92
Unapplied Funds	\$-490.06
FC Fees	\$3,921.77
FC Costs	\$991.55
Interest on Advance	\$31.03
Grand Total	\$168,534.13

2. If the Defendants or their heirs or assigns do not pay Towd Point the amount adjudged due and owing (\$168,534.13) within 90 days of the judgment, as that time period is calculated in accordance with 14 M.R.S. § 6322, their remaining rights to possession of the Sweden property shall terminate, and Towd Point shall conduct a public sale of the Sweden property in accordance with 14 M.R.S. § 6323, disbursing the proceeds first to itself in the amount of \$168,534.13 after deducting the expenses of the sale, with any surplus to be disbursed pursuant to Paragraph 7 of this Judgment, and in accordance with 14 M.R.S. § 6324. Towd Point may not seek a deficiency judgment against the Defendants pursuant to the Plaintiff's waiver of deficiency at the hearing.

3. In the event that the Defendants, and anyone occupying the premises, do not vacate the property upon termination of their right to possession, Towd Point may reopen this matter to seek a writ of assistance and/or writ of possession to be

served by the U.S. Marshals Service pursuant to Federal Rule of Civil Procedure 4.1(a) consistent with this Judgment.

4. Pursuant to 14 M.R.S. § 2401(3)(F), the Clerk, if requested, shall sign a certification after the appeal period has expired, certifying that the applicable period has expired without action or that the final judgment has been entered following appeal.

5. The Plaintiff is responsible for recording the attested copy of this Judgment with the signed Clerk's certification in the proper county's registry of deeds within one year of the entry of the final judgment and for paying the appropriate recording fees. *See* 14 M.R.S. § 2401(3).

6. The amount due and owing is \$168,534.13.

7. Towd Point Mortgage Trust 2015-5, U.S. Bank National Association as Indenture Trustee has first priority, in the amount of \$168,534.13, pursuant to the subject Note and Mortgage and there are no parties in interest other than the Defendants who have second priority.

8. The prejudgment interest rate is 4.125%, *see* 14 M.R.S. § 1602-B, and the post-judgment interest rate is 10.81%, *see* 14 M.R.S. § 1602-C.

9. The following information is included in this Judgment pursuant to 14 M.R.S. § 2401(3):

a. The docket number of this case is No. 2:23-cv-00341-NT.

- b. The Defendants, the only parties to these proceedings besides Towd Point, received notice of the proceedings in accordance with the applicable provisions of the Federal Rules of Civil Procedure.
- c. A description of the real estate involved, 867 Knight's Hill Road, Sweden, Maine 04040, is set forth in Exhibit A to the Judgment.
- d. The street address of the real estate involved is 867 Knight's Hill Road, Sweden, ME 04040. The Mortgage was executed by the Defendants, Sue O'Brien and Charles Flayhan II on December 16, 2005. The book and page number of the Mortgage in the Oxford County Registry of Deeds is Book 510, Page 890.
- e. This Judgment shall not create any personal liability on the part of the Defendants but shall act solely as an *in rem* judgment against the property, 867 Knight's Hill Road, Sweden, Maine 04040.

SO ORDERED.

/s/ Nancy Torresen
United States District Judge

Dated this 16th day of October, 2024.